

**PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
TAUTOG MANAGEMENT BOARD**

**The Francis Marion Hotel
Charleston, South Carolina
November 11, 2010**

Board Approved March 2011

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1. **Approval of Agenda** by Consent (Page 1).
2. **Approval of Proceedings of August 3, 2010** by Consent (Page 1).
3. **Move that Addendum VI includes Issue 5, Option C** (Page 14). Motion by David Pierce; second by David Simpson.
Motion to substitute to include all of the options in Draft Addendum VI for public comment (Page 17). Motion by Jack Travelstead; second by Tom O’Connell. Carried as the main motion (Page 19).
4. **Motion to approve the recommendations by CESS that Robert “Chip” Patterson replace Robert Unsworth as the economic representative on the technical committee and plan development team by consensus** (Page 21).
5. **Motion to adjourn** by Consent (Page 21).

ATTENDANCE

Board Members

David Pierce, MA, proxy for P. Diodati, (AA)
William Adler, MA (GA)
Rep. Sarah Peake, MA (LA)
Mark Gibson, RI, proxy for R. Ballou (AA)
William McElroy, RI (GA)
Rep. Peter Martin, RI (LA)
Dave Simpson, CT (AC)
Rep. Craig Miner, CT (LA)
James Gilmore, NY (AA)
Pat Augustine, NY (GA)
Peter Himchak, NJ, proxy for D. Chanda (AC)
Tom Fote, NJ (GA)

Jeff Tinsman, DE, proxy for P. Emory (AA)
Bernie Pankowski, DE, proxy for Sen. Venables(LA)
Roy Miller, DE (GA)
Tom O'Connell, MD (AA)
Bill Goldsborough, MD (GA)
Jack Travelstead, VA, proxy for S. Bowman (AA)
Catherine Davenport, VA (GA)
Kyle Schick, VA (GA Proxy)
Louis Daniel, NC (AA)
Bob Ross, NMFS
Jaime Geiger, USFWS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Jason McNamee, Technical Committee Chair

Staff

Vince O'Shea
Robert Beal

Toni Kerns
Chris Vonderweidt

Guests

Craig Shirey, DE F&W

Joe Grist, VMRC

The Tautog Management Board of the Atlantic States Marine Fisheries Commission convened in the Carolina Ballroom of the Francis Marion Hotel, Charleston, South Carolina, November 11, 2010, and was called to order at 10:30 o'clock a.m. by Chairman Patrick Augustine.

CALL TO ORDER

CHAIRMAN PATRICK AUGUSTINE: Good morning and welcome to the Tautog Management Board.

APPROVAL OF AGENDA

We've got a relatively light agenda but some very important issues to deal with. Would you please review the agenda; and if you have any suggestions or corrections, please let me know. Seeing none, the agenda is approved as presented.

APPROVAL OF PROCEEDINGS

Item 2, approval of the proceedings from the August 3, 2010, meeting; hopefully you've had an opportunity to review those. Are there any additions or corrections or deletions that should be made? Is there an objection to the approval of the proceedings of the August 3rd meeting? Seeing none, they stand approved.

PUBLIC COMMENT

At this point in time are there any public comments relative to any issue that is not on the agenda? Seeing none, we will move on to number four, consider Draft Addendum VI for public comments, and at this point in time I would like to turn the mike over to Chris and move forward with it.

DISCUSSION OF DRAFT ADDENDUM VI FOR PUBLIC COMMENT

MR. CHRISTOPHER M. VONDERWEIDT: There are a few documents that have been provided to the board. One is the technical committee meeting summary. This was intended to be part of the briefing materials, but the technical committee had to hold a second conference call, and so it was provided as supplemental material.

There is also Draft Addendum VI to the Interstate FMP for Tautog, and I'm going to go over that document in great detail right now. There is also the advisory panel conference call summary. We have Jason McNamee, the technical committee chair, and I'm going to go over what the technical committee –

I'm going to go over the options and all the options include technical committee review.

If there are technical questions, I would ask that those be directed to Jason. Patrick Donnelly was planning on being here, but I'm not sure if his flight got delayed, but the advisory panel's comments were also included in the draft, and I'll go into that in a little bit of detail. Just the background of where we stand right now, at the last meeting the board made a motion to initiate an addendum.

There are two parts to this motion, and the first part is to address illegal harvest of tautog. The second part I think that people pay less attention to when I've been talking to them recently. The second part is to prevent an escalation in fishing mortality prior to the completion of the next assessment. This was the guidance that the plan review team had, and so our approach was that we broke it into two parts, the illegal trade part – and there was a pretty significant thorough discussion by the board specific ways to address the illegal live harvest, so we were able to take the minutes from that meeting and say these are the five things that the board wanted in here.

Unfortunately, the majority of options need further development, and I'm going to go into that in some detail one by one. The second part of this addendum is options to prevent an increase in F prior to completion to the next assessment. There was no specific direction during the board discussion or from board members on how to accomplish that.

It is broad in nature, so we tried to incorporate options that would do that so that's how those were put in there. As part of this, the plan review team put together a draft and then we sent it out to the Law Enforcement Committee, the Advisory Panel, and the Technical Committee. We also had discussions throughout the development of this first draft.

We had the conference calls with them, took the information back to the plan review team, and then we came up with what is the document in front of you. I'm not going to go over the specific little details of committee input if that was included in the current options; but if you want more information on that, it is included in the technical committee and advisory panel reports.

That being said, the first part of the document – and this presentation is just going to follow the document as it goes from Page 1 through Page 29. The statement of the problem for the illegal market; reports of illegal harvest are commonplace. When

the technical committee and advisory panel got together at their last meetings – prior to the August meeting they had strong concern that it is pretty widespread and pretty blatant, more so than in previous years.

The second part is prevention of fishing mortality rate increases. Basically, Addendum IV and V set the new fishing mortality rate target at 0.20, which equals based on the coast-wide average you would have to reduce the exploitation rate by 25.6 percent. 2003-2005 were chosen as the base years, and I'm going to go into this in more detail as we move through the options.

However, the harvest has increased above the level that would have occurred in 2008 based state projections, so new measures might be necessary. For the background, the illegal live market, poaching is attractive because there is a relatively low risk of being caught compared to a high reward for selling your fish.

During times of peak demand, there have been reports that you can get up to ten dollars a pound in Asian markets. However, the undersized tautog, less than 14 inches – the FMP stipulates 14-inch minimum size limit – these smaller fish are best because they fit nice on a plate, it is a single-portion filet. From a 12-inch fish, it is supposed to be good.

Everybody here knows that enforcement is understaffed and has been reduced in recent years, so what kind of an impact on the fishing mortality rate does this have or has this had? It is very hard to quantify just by the nature of it, and there has been no data on that. However, there was report done by senior ASMFC technical staff that showed 1.5 times the commercial catch in 2003, which is 227 metric tons, would have been necessary to change the fishing mortality from 0.15, which was the recommended target, to 0.20, which was the final choice by the board. That's kind of all the information that is out there specific to illegal harvest.

The second part, prevention of fishing mortality rate increase, we've got a lot more data on that. There was the 2005 assessment which triggered board action. While the addendum was being developed, there was a 2006 update, so we could have one more year of data. When all was said and done, Addendum IV and V reduced the fishing mortality rate. Previously it 40 percent of SSB, which equaled 0.28, at the 2005 assessment, but it was reduced to 0.20.

When the technical committee looked at this, they said based on the coast-wide fishing mortality rate each state would need a 25.6 percent reduction in the exploitation rate from 2003-2005 average harvest. The technical committee recommended going with the 2003-2005 average because there was a lot of variability, particularly in the recreational catch, so that would smooth some of that variability.

They also wanted to have a common metric that all state biologists could just being back an exploitation rate, and what they did was basically harvest was used as a proxy for the exploitation rate. If you look at that, harvest has been 66 percent and 55 percent greater than what a 25.6 percent reduction from the baseline would have been for the last two years; and as such F equals 0.20.

And also adding on that, so we may not have reached the F equals 0.20, but compounding that is that F equals 0.20 may be insufficient to rebuild. That is the background information there. What this looks like on a graph, if you look on the left side, there are the circled years. That is 2003-2005 total harvest, commercial landings and the recreational A plus B-1 landings, and if you take the average of those years, reduce it by 25.6 percent, you get the harvest amount that is that blue line there.

And then you can see landings went up in 2006 and 2007, and then they decreased in 2008 when states implemented the Addendum IV and V reductions, but it is well above that blue line there, which was the aim of those regulations. So if you look at the SSB projections, the current fishing mortality rate of 0.2 is the second line from the bottom. It has got the asterisks and it is light blue. You've got the threshold biomass and the target biomass – red is threshold; black is target – and by 2019, if we stay at 0.20, projections estimate that we're not going to get to the threshold biomass.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: I'm sorry to interrupt, but you've said it twice now, and I'm confused. I think it's an important point. You said if we stay at our current 0.20, but I thought before that you said that the current mortality is higher than 0.20. The plan requires 0.20, but our actual mortality is higher than 0.20.

MR. VONDERWEIDT: This will be covered in greater detail a little bit further on in the report, but the anecdotal evidence supports what you said, absolutely, that we probably didn't achieve 0.28 in 2006 and 2007 because the harvest was higher than

the 2005 base year. In addition to that we probably didn't meet 0.20, so you're absolutely correct.

So moving forward to the management options, which begin on Page 9 of your addendum, there are four proposed measures to address the illegal live market. Issue 1 is prohibition of live tautog by non-commercial fishermen, and this one stems directly from a request made by advisory panel members. Issue 2 is establishing some kind of a permit or paper trail that would make it easier to identify illegally caught tautog.

Issue 3 would be developing some kind of a tautog tag. Issue 4 would be kind of a fine structure that the commission would dictate to states saying if you are caught with an illegal tautog, this is the amount of fine that states have to implement. I'll go into those in greater detail. Prohibition of live tautog by non-commercial fishermen, the AP was split on this issue.

The AP is composed of commercial fishermen and recreational fishermen, but some members of the AP had strong support for prohibiting recreational fishermen from keeping any kind of a live tautog. There is kind of two levels of accomplishing that. The first level is to just make illegal holding outlawed for any kind of a recreational angler so you can't drape a bag off the side of your boat, you can't have a cooler full of ice, you can't use a live well. You just have to throw them on ice.

However, tautog is a pretty hardy fish so a lot of the members thought that you can do that in the colder months, which is when the tautog fishery is at its peak, and you can just throw on the deck of a boat and they're going to survive. When you get back to the dock, you put them in a live well and they'll start swimming again.

The background information on this is that there is no need for recreational fishermen to have live fish. The proponents of this feel that way. They also noted that if you have poachers out there contributing to the market with illegal fish, you're increasing the supply so the people who are following the rules are getting a lower price because there is all this illegal harvest.

Also, included in the background information, the reason we chose non-commercial fishermen is that we're not trying to put the onus on recreational fishermen. It is not intended to penalize recreational anglers. There is a clear distinction between recreational fishermen and a poacher. Once you sell an illegal fish, you're a poacher and you're not a

recreational fisherman. It is meant to address poaching under the guise of recreational.

There are a few different options to do this; Option A, status quo; Option B would be prohibition of live holding, as I mentioned before, so you can't employ a live well, a cooler full of ice or any other kind of device that is intended to keep the tautog alive. Option C would be mandatory bleeding. I have worked somewhat with advisory panel members, and I don't know if we're a hundred percent comfortable with the language on bleeding, but right now is that you cut at the end of the last gill arch and pull up on your knife.

The idea there is that the tautog is dead and you can't bring them back to life when you get on shore. Option D is one that the plan development team came up with, and it is the idea of some kind of a recreational ID mark. If you want to look on Page 10 and 11 of the addendum, there are some examples of just some ideas behind the – or what could possibly be recreational ID marks, but basically ID triangles where you cut a triangle on the fin of a recreational-caught tautog if you want to keep it and keep it alive.

And then a commercial fisherman that has a tautog with these markings, they can't sell the fish openly because it is identifiable as a recreationally caught fish because it has those marks on it. Another one would be v-notches on the tail, so kind of similar to lobster. An anal fin notch was one that the technical committee suggested, and there is also language in there for another identification mark.

One of the caveats about these on the next slide are that the technical committee was concerned that you can't put this identification mark on a body part that is mutilated by commercial gear; so if the tail gets mutilated in a fish pot, you can't require having triangles on the tail because an angler could just mutilate the tail and say, well, that happened in the commercial fish pot.

In order to develop a good identification mark, that needs to be considered. The technical committee also commented that putting these marks on the fish might increase disease and mortality and that before implementing this the board might want to think about doing a study on identification marks.

The advisory panel, some members on the recreational side just spoke generally that they were offended that the onus is being put on recreational fishermen – illegal live markets have developed separately from recreational fishermen selling a few

fish at the dock – and so they think this is unfair. They didn't that the ID marks are going to deter poachers.

Generally the poachers don't follow the rules anyway, and there are some cultural differences there. They also commented that the fin rot could look like a v-notch, just natural fin rot on a tautog. Those are all considerations before moving forward. The next issue and actually I think it is the next three issues are generally not viable at this time.

We looked into a permit or paperwork to catch or hold live fish, and kind of the angle was let's look if there is an existing system in place that could sort of be adapted with minimal effort or minimal investment and money and could we just stipulate that or use it as a mechanism. There is really no viable coast-wide permit or paper trail that could be used.

Some states could modify their existing systems but other states would need to invest a significant amount. The technical committee thought that a permit system was a good idea, but thought that a paper trail might be less effective and might be unlikely to deter poachers. If the board wishes to move forward with this option, the plan review team is going to need further direction and has to understand that this is going to require significant time and investment at the state level to implement a coast-wide permit system for tautog.

Issue 3, tautog tags, this is a requirement that could require all commercially caught tautog and/or all commercially caught live tautog would have to be tagged. There is kind of three parts to a successful tautog tag being that this is a live market fish, so it needs to remain alive. Number one is it needs to be difficult to counterfeit. It needs to attach securely to the fish without coming off during transport and things like that. It needs to be non-reusable. In addition it can't kill the fish.

It also might require states to set a commercial quota if your state currently doesn't. I think New Jersey has a commercial quota, but basically you would say what is the commercial quota based on the average size of tautog for that gear type or fishery, and then you'd know how many tags to give. The technical committee was asked to comment on this.

There is no existing or permit system that could be used. There is a lobster system that goes around the individual cages, and there is also striped bass, but the striped bass plan does not specifically require

states to implement that. It is more of a voluntary thing. There is some background in the addendum addressing that.

Similar to the last one, the plan review team is going to need direction from the board to proceed with the development and have the understanding that it is going to cost time and money at the state level to do this. The comment from the technical committee and advisory panel, they were both very supportive of tagging as kind of the best of any of these options for two reasons.

One is it is going to be easier to monitor, and then the second is that you can collect data on tautog and have a better idea of what is actually being harvested specifically in the recreational fishery. The next and last of the deter-poaching options is Issue 4, fines and/or loss of license. This would require states to implement a fine structure to help deter poaching.

What the plan review team did is we said, well, what is another species that is commonly poached, what are the fine structures there? Striped bass rose to the top. We worked with the LEC to get state fine structures from all the different states, and they're highly variable by state. Some states have a maximum fine amount, some states stipulate by number of fish and then a certain amount.

The LEC gave input. Mike is in the back and we worked pretty closely with him. They're generally opposed to this idea. Their recommendation is that there is an equation of three parts if you want to achieve compliance. You need fines that work, yes, but you also need the public to have a fear of detection and apprehension, which currently isn't necessarily the case. You also need public support for the fines.

I think the idea is everybody else is poaching, then why should I follow the rules that I don't agree with in the first place? That is what the LEC's comments were. They also cautioned that judges are the ones who stipulate the fines; so if you're comparing a very graphic case, violence or something, and then you've got in front of the judge a thousand dollar fine because they took a few fish, the judge could bring it one way or another, but the bottom line is that the judge is the one who implements the fines at the end of the day.

Because of that, there were no fine structures that kind of showed their face as we looked at the striped bass; and because of opposition on the LEC side, we didn't bring forward – there were no fine structures

that seemed to work, so the plan review team again will require direction from the board before being able to proceed with this option. That concludes the black market or illegal live market section of the addendum. I'm not sure if maybe now would be a good time to address questions before moving on to the next part.

CHAIRMAN AUGUSTINE: Thank you, Chris, for a very lengthy and comprehensive presentation as to all the background information as to how we got to where we are. I would only remind the board, not because you don't know it, but the reason for our consideration of this action was very simple.

It was to address the illegal trade of live tautog; and, two, more importantly or as importantly is prevent increases in fishing mortality prior to completion of the next benchmark assessment scheduled for completion around September of 2012. So, keep those in mind. With that, I would like to entertain any questions from the board at this time so we'll get this behind us and then, Chris, you will be able to go on to the next one. Does the board have any questions at this point in time? Representative Miner.

REPRESENTATIVE CRAIG MINER: Mr. Chairman, with regard to the keeping of live tautog by recreational fishermen, I know some people will kind of size up during the process of their fishing outing. It seems to me that this might limit that. You'd almost be forced to discard what at that point would be a dead fish if you were trying to size up, which I think most recreational fishermen would not do, but I think that is a possibility. Additionally, I didn't know if maybe the group took a look at an option such as landing with a live fish as opposed to possessing one if you were out for four or five hours during the course of the day.

CHAIRMAN AUGUSTINE: Do you want to address that, Chris, or just leave it as a comment? Was there consideration to what Mr. Miner said? I think there was.

MR. VONDERWEIDT: The initial conversation that the technical committee had back before the August 3rd meeting, there were comments that it could lead to high grading, like you said, and so that's a consideration. As far as looking at landing versus possession, that is actually covered in the second section of this presentation, so I'll go over that.

DR. DAVID PIERCE: In terms of the upcoming year, recognizing we're already in November, I think

what you're saying, Chris, on behalf of the review team is for the purposes of the addendum Issue 1 that relates to the prohibition on live tautog by non-commercial fishermen, that all the options that have been described in the document are viable and doable.

I believe you're saying on behalf of the team that Issue 2, permit or paper trail for live fish, that should be struck. On tautog tags, Issue 3, I think you're saying that significant time and investment by the team would have to be sunk into this, a lot of guidance from this board, so I'm reading into your presentation the fact that this would not be something – it could be used for next year, maybe in the future, so I'm a little bit uncertain as to what that means for this particular addendum.

And then I believe you said on Issue Number 4, that should be struck because the Law Enforcement Committee does not support that. That brings us through all of the issues that relate to the problem of poaching of live tautog, so we're only left with – I think what you're saying is we're only left with action the board needs to take specific to Issue Number 1 if we want to do something for next year; correct?

CHAIRMAN AUGUSTINE: Yes, Chris, do you want to respond to that on the record?

MR. VONDERWEIDT: If we want to move forward today, Issue 1 is the only one that is ready for prime time, I guess.

MR. MARK GIBSON: My question is with regard to all of this. We're chasing a lot of – well, I don't know if they're phantoms or not, but we're chasing a lot of hypotheses here. We did it in striped bass as well, I'm wondering is there any direct evidence of high mortality rates in tautog that are independent of the catch-at-age analysis; that is, are there any tagging studies or analysis of age composition that would tell us that we have a high mortality rate in an unaccounted for piece of mortality because that is something that we have in striped bass.

We've had a lot of discussions in striped bass about the need to tag fish and illegal harvest and all this thing; you know, the big bust that happened in the Chesapeake Bay, and it was great work and the commission awarded those individuals who do it, but at the end of the day we have tagging studies that tell us that the mortality rate in those is either equal to or less than our catch-at-age based analyses, so there is really no direct evidence to support the concept that

there is a great unaccounted for harvest in striped bass that we're not taking account of. I'm wondering in tautog is there any direct evidence, independent of the catch-at-age analysis, that tells us we have a high mortality rate, unaccounted for mortality?

CHAIRMAN AUGUSTINE: Jason McNamee, would you please try to respond to that.

MR. JASON McNAMEE: There are not any large-scale, something like you described, a tagging program for tautog. There have been some smaller ones that have occurred in the past – for instance, in Rhode Island – but there is not currently any auxiliary information that exists to develop that sort of an analysis. Basically, what we've been kind of working on at this point is the analysis done by ASMFC staff a couple of years ago to kind of judge the possible magnitude. The rest of it is sort of evidence coming out of the law enforcement panel.

EXECUTIVE DIRECTOR O'SHEA: To that point, when Jason was saying the – I'm not exactly sure of the term – the evidence developed by the ASMFC staff, my understanding is that what the ASMFC staff developed was an estimate of how much the illegal removals would have to be in order to move F. It wasn't any evidence that there was any sort of illegal removals. It was a theoretical calculation of how big would this illegal fishery have to be to show a movement in F. That was my understanding of what they had done. I don't know, Jason, if I characterized correctly.

CHAIRMAN AUGUSTINE: Jason, would you please respond to that. I'm not sure; you're the technical guy, please.

MR. McNAMEE: Sorry, I didn't mean to imply that. That is sort of what I was getting at is we're just trying to judge a possible magnitude of what could be occurring to affect the rebuilding.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Mr. Simpson, please.

MR. DAVID SIMPSON: Okay, a couple of things; one following on Mark and then my original reason for raising my hand. Normally, a substantial amount of unaccounted for catch would show up in a retrospective pattern or VPA or something, you know, typically. I don't have the same level of confidence in the tautog VPA that I would have in summer flounder in particular where significant retrospective patterns appeared and you could more comfortably – I could more comfortably perceive that

as a real signal picking up something that we should pursue.

With tautog I guess if I recall they are like – well, they are predominantly a state water fishery and so it is a product that is coming in smaller bits to numerous ports in contrast to a high-volume fishery that's going to come into – you know, that's going to be a federal permit, federal paper trail, much better accounting, so I think there is the possibility that we're simply missing the scale. If there is unaccounted for catch, then the stock is bigger that we think.

It may not affect the fishing mortality rate unless the trend is changed. If Mark sees that differently, he should let me know, but I think that's the perception. So, be that as it may, I'm not convinced yet that there is not quite a bit going on because of the value. My question was really to states with striped bass fisheries and tagging programs and how that works out. I'm looking for the example and application to tautog, how much do the tags cost, who pays for them, that sort of thing. I wondered if anyone who has a program now could – because we don't – could maybe share that a little bit and give us an idea of how plausible it might be to apply that to tautog where – well, we still have to get over the idea that they could tagged and kept alive. If anyone has anything, I would appreciate it.

CHAIRMAN AUGUSTINE: Any states that would want to share that with us, we have some time, what their effect of having a tag program in striped bass, how effective it is and do you think it may be applicable to tautog. I'm not sure of any of the states who have that tag – Mr. Travelstead, would you share with us what you folks do.

MR. TRAVELSTEAD: Virginia and I think a lot of other states require tagging of commercially caught striped bass. It is a long tag that has a tamper-evident seal on it, and I think they cost like ten to twelve or thirteen cents apiece. It has become the normal practice in Virginia. We don't hear that many complaints. You've got to be careful about that type of tag. On a species like striped bass, you need a fairly long tag, obviously, and then there are issues with cold weather. They will get brittle and break on you so you've got to watch out for that. There are a few complaints about that, but generally the system works well.

MR. SIMPSON: Jack, could I just ask the tag just runs through the gill and the mouth?

MR. TRAVELSTEAD: It does, through the mouth, out the gill, and then tamper-evident lock.

MR. CRAIG SHIREY: Our striped bass tags, we use something similar to what Virginia does, I think, and they run between thirteen and eighteen cents apiece, depending on the volume that is purchased. They are a long tag. We wouldn't have to have something like that for tautog, but they are tamper evident, and it really worked well.

MR. PETER HIMCHAK: On this particular issue, I'm very happy that we're trying to address this. I kind of lean towards the paper trail product and only because it suits our situation very well. We have a tautog permitting program and only 64 individuals are legally allowed to sell tautog, and they have permits for tautog. Anybody buying a tautog from anybody that cannot produce his permit is buying an illegal fish. In our case the paper trail – and if we had mandatory dealer reporting, then they could check the point of sale and say, "Where is your tautog permit? So you don't have one; ain't buying it."

CHAIRMAN AUGUSTINE: Thank you for sharing that with us. Mr. Gilmore.

MR. JAMES GILMORE: Mr. Chairman, just to add to the tagging system, we in New York have one for striped bass, which works very well, and it has similar components as was mentioned before Virginia and Delaware; you know, tamper-evident tag, whatever. The only caution I would add at this point in time is that effort is very labor intensive. The staff in that program in the diadromous unit commandeer our conference room and many staff are called to help out for that, so we think that tagging is a big solution to a lot of our efforts, but in the situation we're in with staffing as a lot of the states are, it's like we're going to have ramp up a bunch of bodies if we were going to start implementing some like that.

MR. THOMAS FOTE: In New Jersey, when we changed the law in 1991 to not allow the sale of native striped bass, we basically allowed for hybrids. When you go into the restaurant, they have to have the paper trail of where that hybrid is bought to make sure it is a hybrid.

CHAIRMAN AUGUSTINE: Thank you for that, Mr. Fote. Some of the other states may want to adopt some of those ideas that have been put forth, and we may want to consider it as a board. Anymore

comments from the board at this point in time? Seeing none, I'll go to the public. Mr. Leo.

MR. ARNOLD LEO: When you tag a striped bass, they're dead and they're very cooperative. Tagging a live tautog would be a very, very different matter, and I don't know that the commercial fishermen are going to be thrilled about that one. I commented before on this. The violations here are that you're selling the fish and you don't have a commercial permit to do so or the fish are undersized or there are too many fish above the daily limit or you're out of season.

Those are the violations, but it seems to me in terms of selling the live ones, that it really comes down to an enforcement problem; because when they're sold they're being held in a tank at seafood shops, and that is relatively easy to police, particularly because it tends to be ethnic markets that are in certain sections of the cities.

To me it really comes down to an enforcement problem. I think the burden that would be put on the recreational fishermen to give up live wells or to try to put tags on these live fish, I don't think is very practical. I just want to speak in favor of regarding it as an enforcement problem and allowing the live tautog catching to go on by both recreational and commercial. Thanks.

CHAIRMAN AUGUSTINE: Thank you for that input, Mr. Leo. Captain Nowalsky.

MR. ADAM NOWALSKY: I just go back to similar to what are we trying to solve here and looking at the preface of the addendum – and I appreciate the work that has been put into this by the technical committee and by staff – the statement of the problems are summarized poaching is common and request the board initiate management measures to fix the problem.

And what I'm hearing today is that Issues 2, 3 and 4 will likely need further work to move forward; so as we move forward with the addendum, I can't see moving forward with Issue 1 where there is a lot of acknowledgment that it is probably not going to have a great impact on it without moving forward on Issues 2, 3 and 4, which are going to have the larger impact.

A lot of this, when you go and see the composition of the members of the AP that attended the conference call, you see that these AP comments have been driven largely by the commercial sector. What you

have in this instance is while the recreational sector certainly shares in the concerns of this, the commercial fishermen are really being hurt the most by the illegal unreported black market trade.

It's driving their price down ultimately for the honest fisherman is what you have. So you have the commercial fishermen looking for relief from that, the honest commercial fishermen, and the onus seems to be placed on the recreational angler, which I simply can't support. So as we look to move forward with this, in addressing the statement of the problem here, whatever we move forward with, let's make sure that we're moving forward with something that is going to fix everything and not just be a token issue to say, okay, well, we tried to do something without really addressing the underlying problem. I'll reserve further comment should a motion actually be made at some point for specifics on this.

CHAIRMAN AUGUSTINE: Thank you for those comments. Seeing no further hands around the table, let's go back to Chris' report.

MR. VONDERWEIDT: The management measures are to prevent an increase in fishing mortality prior to completion of the next assessment. You might notice there is no Issue 7 there. It goes 5, 6, 8 and 9, so that will have to be corrected. It is like that in the addendum, too; so if you noticed that, that is why it is like that.

The four measures in here are adjusted regulations for a state with incomplete reductions; so if states did not appear to meet the harvest targets – and I'm going to go into greater detail in a minute on each of these – Issue 6 would be consistent regulations either regionally or coastwide. Issue 8 would be simply a fishing mortality rate reduction. Issue 9 would be measures to improve compliance in federal waters.

Being that the motion is prior to completion of the next assessment, I figured it might be beneficial to look at what the timeline would be with the assessment and a management response. The data workshop is scheduled for the spring of 2011. The spring of 2012 is when the assessment report would be completed and published for the board.

What this would mean is that at the earliest with everything going according to schedule and no delays in the assessment, an addendum could be initiated at the summer meeting depending on what the assessment results say. Then at the 2012 annual meeting a draft for public comment could be

released. The 2013 winter meeting an addendum could be approved for final approval.

This would mean implementation by the 2014 fishing season. That is kind of a loose timeline. If we want to follow the assessment timeline, the new measures would probably apply to 2014. Going into the background of measures to prevent an increase in F, as I said before, the new target under four and five is 0.20, which the technical committee reviewed and deemed equivalent to a 25.6 percent reduction in the exploitation rate.

They recommended using the 2003-2005 average harvest. They presented this to the board during the meeting, and the board made a motion to approve the technical committee method. After that the states went back and they brought forth harvest targets for the new regulations, using this technical committee methodology, and they were intended to begin in 2008.

Even though the exploitation rate is a function of the total population, states basically used a harvest as a proxy for exploitation, and this does not consider stock growth or changes in indices. What this means is that we can kind of look – we can actually look at what states – when they put their new regulations forth, they said our harvest is going to equal X-amount in 2008, and we can look at the 2008 harvest and say how effective were those landings.

If we do that – and this is on Page 16 of your addendum – you'll notice a great deal of states are above, so the right-hand column is the important part of this. Massachusetts and Rhode Island, there is an asterisk there because they were allowed to only reduce by 12 percent to meet the F target. They're below by 41 percent and 8.2 percent. Connecticut is over by 123; New York, 97; New Jersey, 268, so and so forth, so the majority of states did not meet those harvest reductions.

If you look coastwide at the bottom right, it is 66.3 percent above where we would like to be. There might be some of you that say, well, this is exploitation rate; what about increases in stock size? As I said before, it is a function of percent removals of the total population. Since these were calculated in 2007, if SSB is increased the harvest could increase a certain amount.

What the technical committee did was they updated the projections using constant recruitment, which best mirrors the life cycle of the tautog, and they put in F equals 0.28 for 2006 and 2007; and then beginning in

2008 they put F equals 0.20, which is what the regulations were supposed to achieve. As Vince pointed out before, it is unlikely that F actually equaled 0.28 in 2006 and 2007 because it was much higher than the baseline.

And then it is also unlikely that F equaled 0.20 in 2008 and 2009, so this is kind of rosy picture, but it allows for a 10.6 percent increase by 2009. If you look at this – and this is on Page 17 of your addendum – even with that 10.6 percent stock increase – and these percentages change because it is including 2009 harvest – the majority of states have overharvested by a pretty significant amount, and I believe the average overharvest was 55 percent.

Now, in addition to these two harvest analyses here, the technical committee looked an exploitation rate analysis to see how does harvest compare to the 25/6 percent reduction relative to the baseline in those years, is simply harvest over stock size, and the technical committee all agreed that the analysis shows that estimates of harvest are well above the rate of harvest necessary to achieve an F equals 0.20, so there are those three things that make it look that it is pretty likely that the current F is higher than 0.20.

What are the management options relative to state regulations? Issue 5 is adjusted regulations for a state with incomplete reductions. One or more of the following could be selected by the board. Option A is status quo. Option B is status quo if they're less than 10 percent over with the idea that there is some variability in these; so if it's small, you might not have to initiate rulemaking for that.

Option C would be that there are further regulations to meet what the 2009 harvest target was from the state plans. Option D is less conservative than Option C, and it would allow for the percent stock increase, so it would be that 2008 number plus what the projections would allow the stock to increase, so right now that would be 10.6 percent increase in harvest. But when this would be implemented, there would be a couple more years, so it would be slightly higher in 2010 and 2011. Those are the options there. Are there any questions on that?

MR. SIMPSON: Chris, the difference between Table 4 and Table 5 I thought was simply adjusting the target up by 10.6 percent; it must be more that?

MR. VONDERWEIDT: It is just 10.6 percent, but you might be looking at the percentages and saying, well, why did this go down for some states and actually go up in I think New York. It is because the

2009 harvest was that much higher than the 2008 harvest, and so it is 2008 plus 2009 versus just 2008. But you're right, the difference is just the 10.6 percent increase in the harvest target.

MR. SIMPSON: Okay, so two things changed between Table 4 and Table 5? Okay, thanks.

MR. HIMCHAK: Mr. Chairman, is Jason going to give a separate report for the technical committee or should I ask him questions on their reports at this time?

CHAIRMAN AUGUSTINE: Yes, Mr. McNamee, if you would like to speak to it now or later; so go ahead, do you have a question for him Mr. Himchak?

MR. HIMCHAK: Yes, I had two questions for him. New Jersey sees this harvest used as a proxy for exploitation rate as the real problem. I would draw Jason to – I would ask him to explain in the technical committee report the inaccurately low landings for the baseline years for New Jersey, 2003-2005, and how it could essentially undermine this whole rush to judgment on the condition of the stock.

And then why was an evaluation of exploitation rates done by Mr. Brust – this was done for the technical committee. It is dated October 18th. The technical committee report on Page 4, under exploitation rate analysis, there is a paragraph there on how the harvest – and I'll follow up with this on the problems with the harvest, but I'll let Jason get us started here.

MR. McNAMEE: Okay, I guess we were not intending to do a full-blown technical committee report today. A lot of what we discussed is included in all the material that was given out, but let me kind of walk you through our process since your last board meeting. It came from the board to have the technical committee look at some potential issues with the harvest for tautog.

We started to think about how we could kind of judge that absent an assessment, and we kind of stepped through a process. As a first blush we looked at harvest and tried to see what we could see with just the harvest numbers and whether they've flattened out since implementation of the last addendum's measures. What we found was harvest has increased.

So then we took it a step further and said, okay, well, the measures that we implemented for the last addendum were supposed to allow the stock to rebuild, so let's look at harvest relative to some potential stock rebuilding information. What we did

– and this is where Jeff’s report comes in – was we looked at the population growth as projected from both the 2006 projections that we did back during the last assessment and addendum process, and then we updated those to look at a situation where we took some credit for the measures that we implemented.

In each case what we found was harvest has increased to a higher level than even a very – as Chris coined it – rosy projection of stock increase. That’s all included in the reports that you all have. Now to your final point, Jeff indicated that he sees some issues with the harvest numbers. They’re based on MRFSS data and he was concerned that sort of counter to what you normally encounter with this sort of discussion, but he found that the harvest estimates for New Jersey at least, which is a very large component of the coast-wide harvest, were low during I think two of the three years we used in the baseline. What cascades from that sort of discussion is that baseline then would be inaccurately low. That’s certainly true. We talked about that a little further, and it is the information we have.

It was sort of indicated by Jeff and possibly Hugh, the actual New Jersey member of the technical committee, that they would look into this. As we’re away from those years, there is not a whole heck of a lot they can do other than trying to ferret out whether there was some keypunch errors or conversion errors of something of that nature, but we can’t go back in time, I don’t think, to redo any of the intercepts.

MR. HIMCHAK: To that very point – and I see in the addendum where there is mention about states having concern with landings and can make a case for something that they believe is more accurate. I was wondering how that process would proceed. I’m not up here to whine about MRFSS regardless, but I will point out some fatal flaws that could undermine this process.

Yes, we looked at the MRFSS data for the reference period landings, 2003-2005, there were zero positive intercepts for tautog in the private and rental boat mode and our harvest is entered as zero for the year. That typically accounts for over 50 percent of our annual harvest by the recreational fishermen, so we have a three – and the percent positive intercepts for the third year is they probably have one positive intercept.

So, we’re starting from depressed landings of 2003 – these are fatal flaws. This is not just a high PSE on this. They entered a zero harvest. When you consider that at one time we took 80 percent of the

entire Atlantic coast harvest, this has repercussions through the conclusion of the 66 percent, and therein lies the problem with just using the harvest data.

I support the target F of 0.15. I was on the technical committee for many years and supported that, and I’m very happy that we’re doing something with the live fish market. But to go into this approach requiring such a drastic reduction in the recreational landings based on this line of thought is going to be disastrous.

There will be a tremendous backlash from our recreational fishermen and I don’t blame them. We can document this from the MRFSS data. It is in black and white. And then the other point, are we running ahead – is there a sense of urgency and we’re running ahead of the stock assessment?

The only fishery-independent survey in the southern region is the New Jersey Trawl Survey Index, okay, and I don’t see any of that referenced in here. That has shown a relatively steady, slow increase in CPUE since the year 2000. So, if we proceed with this Section 2.3.2 and take this out to public hearing, I would like to know at what point New Jersey would get the opportunity to come in and discuss this 215 percent overage, because it is artificially generated.

I would hope that – I would be prepared to make a motion that we not proceed with Section 2.3.2, we continue with the coast-wide VPA, peer-reviewed benchmark, starting with the data workshop – I thought it was starting in January – and we get these issues resolved. I’m not going to be a very popular person here today, especially in light of the pressure that the Policy Board is putting on management boards to take action, but I have to speak up for our constituency on this. As I’ve read in e-mails, the commission’s credibility is on the line on this tautog issue. Well, we better get it right because this has a serious flaw in it.

CHAIRMAN AUGUSTINE: Thank you for sharing those comments and concerns with us, Mr. Himchak. There is no question if the state has concern about what MRFSS has put in their survey document that shows you have zero submitted to you. Several years ago when New York was credited with more black fish in one year than the whole coast collectively, we never were able to get that changed, but it would seem, as an aside, New Jersey might want to address the issue with MRFSS directly to see if they can’t go back and change it.

To your second point, there is no question in my mind that you can, later in the session this morning, decide to eliminate that section completely from going out to the public. That will be your prerogative. We don't want to take a motion now. Let Chris respond to that first.

MR. VONDERWEIDT: Pete, just so you know how the plan development team proceeded on this, we were very sensitive to the concern coming from Jeff. If you'll look, as you mentioned on Table 5, there is language in all these tables that says concern has been raised by some states that their 2003-2005 harvest numbers are inaccurate.

Percentages will be adjusted using the same method as more accurate landings become available. If New Jersey is able to show that these are wrong numbers, we fully intend to do that. Our intention was to have a method going forward with this. This is the technical committee approved method that was approved by the board after the recommendation developed all these numbers. We are sensitive to that and we understand the concern.

MR. HIMCHAK: Well, the point is that – and on first look, what Jeff has given me this week is that we're about 15 percent over using the analysis if we had credible landings during this time period. So not only does that take us from 214 percent to 15 if we make the case, but it brings the coastwide – again, it has repercussions throughout the projections and the urgency of reducing recreational landings. I was hoping this addendum would really focus in on the live fish problem that has been lingering forever. Thank you.

MR. SIMPSON: I came into the meeting really thinking about how much we need to do for tautog, and I am concerned about the exploitation rate. The amount of fishing I've seen in Connecticut this fall, especially since the scup season closed, is phenomenal, and yet I'm extremely sympathetic to Pete Himchak.

In fact, as I listened to him and looked at his numbers and couldn't believe them myself either, so I guess I better open my e-mail from my technical person who sent it yesterday. I'm looking at our 2008 numbers. We landed 784,000 pounds – it's a little bit different than the number that is in the table, but it is basically the same; 2009, 271,000 pounds, the same rules; this year through Wave 4, 370 pounds.

I think this points to a real fundamental problem we have in managing recreational fisheries and trying to

apply commercial fishery principles of quota management in hard numbers because what we're really talking about here this is now quota management. It is sort of a backdoor quota of you have base years and then you work from there, so it is a backdoor quota for the lack of a better term.

But it is really troubling the seesawing we're going to get into with this species if we pursue it any further, so I'm not sure what we're going to do. I do think we have a problem in Connecticut and I do want to address it because tautog is a local conservation, local benefit kind of species, but I'm doubtful now that the MRFSS data is going to be able to help us figure out how to do the right thing in the future for this species.

CHAIRMAN AUGUSTINE: Thank you, Mr. Simpson. You will recall that as this board moved forward, the major concern in the last three or four board meetings brought forward by the LEC have been strictly how do we address the illegal market? We've gone there and we've got a package now that gives us some ideas as to what to do. Your points I believe are well taken.

Maybe we're stretching this too far to take into consideration other issues at this point in time considering the timeframe of the benchmark assessment, which is 2012. By the time we go through all of the issues here, if we adopt them, they won't go into effect until 2014, I believe it was said by Chris. My question to the board is how many of these other issues must we address at this juncture to put a document out to the public that says here is what our concern is, here is what we can do, here is what we want to do, and we want your input. Mr. Himchak.

MR. HIMCHAK: Mr. Chairman, again a question for the technical committee.

CHAIRMAN AUGUSTINE: Would you hold just for one second, please, Pete? Chris has something he wants to interject.

MR. VONDERWEIDT: I don't know if Mike Howard is still in the room or not, but the LEC has been saying that the regulations are appropriate and they're enforceable and that enforcement has been aggressive. There was a memo provided for the last board meeting. I just wanted to make that clear.

CHAIRMAN AUGUSTINE: Sorry for the interruption, Mr. Himchak, please go ahead.

MR. HIMCHAK: To that point, yes, our enforcement reports, yes, when they go target tautog, they have a 90 percent positive rate on non-compliance on tautog, so they're enforceable and there is a lot of illegal fishing. The point I wanted to make is I wanted to ask Jason is what other signals on the stock condition did you look at other than landings that may elicit a problem? I already mentioned the fishery-independent survey for the southern region as having a slow, steady increase in CPUE. What other signals did you look at?

MR. McNAMEE: We did have some discussion on other signals, and most of them stemmed around the regional VPA that was recently done. That is all I can speak to, so I'm not sure if you're interested in hearing about those, but what I will say is you see a similar trend in the Rhode Island and Massachusetts information where you have a steadily increasing trawl index.

But when you break that out into the age structure that we use for the assessment, it is not compensating for the increase in harvest. There are also some recruitment indices we have looked at that also are not indicating very positive things. We looked at some other stuff, but they're regional in nature, specifically the northeast.

MR. HIMCHAK: Yes, to that point, Mr. Chairman, so you're taking a regional stock assessment – and again not to curry anybody's disfavor here, but Rhode Island was not required to take a reduction under Addendum III, and then both Rhode Island and Massachusetts were not required to take the full 25.6 percent reduction under Addendum V, so you're taking a localized stock assessment and you're applying that to the coastal stock as opposed to doing a coastal VPA?

MR. McNAMEE: No, we weren't applying anything to anything. I was simply answering the question that you asked of what the technical committee looked at. We did not take that information and apply to anything other than a discussion of the regional VPA and things that were happening at the regional level.

EXECUTIVE DIRECTOR O'SHEA: Mr. Chairman, just to clarify something that was said earlier, actually the Connecticut MRFSS data for 2009 is showing 252,000 pounds of harvest in Wave 6 for 2009. The 270 pounds was for Wave 4 only, so we still have Wave 5 and Wave 6 to go. Thank you.

CHAIRMAN AUGUSTINE: I hope we're not getting too deep into this, but, Mr. Simpson, to that point.

MR. SIMPSON: Yes, I agree in Wave 6 it was 252,799 pounds estimated to be landed. The annual total is 271,805. We don't have Wave 5 estimates yet for 2010, but the Wave 4 estimate is 370 pounds and the Wave 3 estimate is zero.

CHAIRMAN AUGUSTINE: Open and closed season, right. Let's move on. Chris, back to you, the next item, please.

MR. VONDERWEIDT: Issue 6 would be implementing consistent regulations for tautog either regionally or coastwide. As we went over, the FMP stipulates a target F rate and states are allowed to implement regulations as best meets their needs. If you want to look on Page 19 and 20 for open and closed seasons with possession limits or 23 and 24, they have the specific state regulations, but they're generally inconsistent between states as a result.

One state might be closed but the adjacent state might be open with a ten-fish recreational bag limit. This allows fishermen to travel to states that are open, so the restrictions that states implemented are less effective than when they were done on paper. Consistent coastwide or regional regulations might be more effective when achieving the target F.

The technical committee was asked to review this idea and come up with some kind of a potential regional and coast-wide options, but on the conference call there wasn't sufficient time to do that. If the board is supportive of this concept, the technical committee would need to have a one or several days' meeting to look at the existing state regulations and look at what would be the most palatable for the different regions and a good way to slice up the pie. There are no actual options in here, but that is the idea for consistent tautog regulations.

The next issue, the fishing mortality rate reduction, is just the idea that F equals 0.20 might simply be too high of a number to rebuild the stock. Back in 1996 the original FMP stipulated an F equals 0.15. The implementation was delayed through subsequent addendums and eventually abandoned for F equals 40 percent SSB.

However, throughout this process the technical committee has consistently recommended F equals 0.15 to rebuild in a reasonable amount of time. Contributing to that, to the technical committee

discussion of this measure at their meeting, there was evidence in the Massachusetts/Rhode Island VPA that when they did successfully achieve F equals 0.15, the stock increased and then it started to plateau back when they achieved 0.20.

That's the idea behind that; and if you look at it graphically at the bottom right, the FMP was implemented in 1996 and then the various addenda, and you can see where the stock is relative to the target and the threshold, so it has pretty much been down at that low level. Ever since we have begun managing it, it has not rebuilt.

If you look at the projections based on constant recruitment, we have the current fishing mortality rate of 0.2, which are the diamonds on the bottom there, and it shows that by 2019 the stock is not projected to reach the threshold, and then under 0.15 it would come close to the threshold by 2019.

Because of that, we included a fishing mortality reduction option. The options here are pretty simple; status quo, stay at 0.20; Option B, target F would be reduced to 0.15; and then Option C would be a different fishing mortality rate other than A and B, to just kind of allow for something different if the board deemed it appropriate.

Issue 9 stems from an initial discussion of the advisory panel. There were members who were concerned that fishermen can go in federal waters and catch a whole bunch of tautog, leave them in a bag and then just come back and get them throughout the day following the state possession limits. This concern is that there are loopholes there that make poaching easier.

If you can catch as many tautog as you want in federal waters, you only have to kind of run that three-mile gauntlet to get back to the state versus the big EEZ. We've talked to the Fisheries Service staff and they have commented that the disjointed state regulations make it hard to implement regulations in state waters because it is different for each state, so there is a lot that would go into implementing the regulations.

However, one potential state management measure that we could take would be to use landings or possession restrictions to control federal waters in other fisheries, and we can recommend federal management measures that are identical to the least restrictive state measures. Moving forward to the actual management options, Option A is status quo; Option B would be possession restrictions where

states have to implement their current restrictions as restriction on possession so you can't take the fish from federal waters into that state and at the same time you can't bring an amount in excess of that that were caught in a different state through that state waters.

So if somebody in Delaware wanted to bring ten fish into New Jersey when New Jersey is closed, they wouldn't be able to do that. Some states already have possession restrictions in place, but this is one way to try and address that. Options C and D are the least restrictive state regulations as a recommendation to the National Marine Fisheries Service for implementation.

The least restrictive size limit in state plans are a 14-inch size limit so we could recommend that NMFS implement a 14-inch size limit in federal waters; so if somebody wanted to catch a 12-inch tautog, they wouldn't be able to do it in federal waters without getting arrested if they're caught. And then Option D would be a ten-fish recreational bag limit. There is no state that has a higher than ten-fish recreational bag limit.

The Service could implement these regulations without impacting existing fishermen that are following the law. The only comment on this from the various input groups was the advisory panel was curious why the Service has implemented summer flounder regulations but not tautog. What they suggested was that you just have it consistent with the regulations in the adjacent states.

CHAIRMAN AUGUSTINE: To that point, I hate to put Mr. Ross on the spot here, but it would be a question for you; and if in fact you all considered that, would you be amenable to do that and what would the process be?

MR. BOB ROSS: A couple of comments here; first, we're aware of this request earlier at the prior board meeting. We have worked extensively with Mike Howard and the Law Enforcement Committee as well as our own law enforcement staff. It is still NMFS' opinion that the most effective enforcement is dockside enforcement in this case and not at-sea enforcement.

The other issue here is the comment of why summer flounder regulations and not tautog, and the bottom line is that is a joint plan with summer flounder and there is an elaborate mechanism that the commission is very much aware of that vets the various measures, bag limits, et cetera. So it continues to be our

position, as well as law enforcement's, that these least restrictive at-sea measures would be not effective.

We have heard from others that – I believe Pete Himchak indicated enforcement has been effective. We have heard from Dave Simpson that the majority of the landings do occur from state waters. Our position at this time is that dockside enforcement is the most appropriate mechanism.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Dr. Pierce.

DR. PIERCE: I have a question of Chris relative to his presentation. You just described for us the technical committee's suggestion – maybe it is not the technical committee, but I think it is – yes, the technical committee recommended a target F of 0.15 and the suggestion is under Issue 8, fishing mortality rate reduction on Page 21 of the document, that we have a target F of 0.15 as opposed to the target F of 0.20, which is status quo.

My problem is and my question is how are we to evaluate the consequences of what needs to be done for us to pursue that particular target F? What is available for us to reference? There is something very useful for us to reference under Table 5 and Table 4 regarding the 2008 harvest target, but I see nothing in front of us that would indicate what the harvest target would be corresponding to the 0.15. If we don't have that harvest target to work with, it would be very difficult for us to adopt that strategy at this time as part of the addendum. Is there a harvest target for 0.15; and if there is, then what would that mean for the individual states?

MR. McNAMEE: The discussion with this proposed change to the fishing mortality rate from the technical committee's perspective was that we would be readjusting the target, which would then dovetail in with the following assessment where we would actually find out what our current fishing mortality was. As far as anything in the interim that would be done to adjust to meet this target, we did not have that discussion. It was our understanding that any adjustments to this new target would be done after the next coast-wide assessment.

DR. PIERCE: That is helpful. Mr. Chairman, we're running out of time and this addendum has a lot of issues. I would like to make a motion, if it is appropriate.

CHAIRMAN AUGUSTINE: Hold on, let Chris finish up his presentation and then we'll entertain your motion, Dr. Pierce.

MR. VONDERWEIDT: I was just going to suggest going to the next slide to help you make your motion. The options that are in the addendum are up on the board there. The options that are not viable have been crossed out, the ones that need further development. The ones that aren't crossed out are up there.

CHAIRMAN AUGUSTINE: Dr. Pierce, does that help you with your motion?

DR. PIERCE: That's very helpful and pretty much consistent with the motion that I'm going to make. Someone, of course, can move to amend, **but I'll begin by making a motion that Addendum VI includes Issue 5, Option C.** That's on Page 16 of the document, and Option C is that any state whose 2008 harvest exceeds the harvest target – and it references Table 4 – must implement new regulations to reduce the harvest to the 2008 target harvest level. That is my motion, Mr. Chairman; at this point in time restricting the addendum to this particular issue.

CHAIRMAN AUGUSTINE: Okay, thank you very much; is there a second to that motion as presented? Mr. Simpson is the seconder. Discussion on the motion? Mr. Simpson, would you like to speak to the motion?

MR. SIMPSON: Yes, I'm making the motion with the caveats that I expressed earlier. I have grave concerns about the utility of the data we'll be using to accomplish the constraints on fishing mortality that I think we need to make. I certainly will be sympathetic to any states that come forward, such as New Jersey, to explain their approach and their thoughts about where they are relative to their targets.

I do think tautog is one that, as I said before, local conservation and local benefits, and I'm more sympathetic to providing states some latitude to explain how they hope to conserve their resources. Now that I've looked at our data, I know I'm going to be scratching my head a whole lot harder than I thought I would have to put in some new constraints to hold this long-lived, slow-growing species in a decent stock condition. Frankly, to be expeditious I need a commission requirement to do something. Otherwise, it will take me a year to do it and we won't get anywhere.

CHAIRMAN AUGUSTINE: I'm looking for anyone opposed to the motion. Mr. Himchak.

MR. HIMCHAK: Mr. Chairman, I think it is my understanding that this would be the only item to go forward in Addendum VI?

CHAIRMAN AUGUSTINE: At this moment, Mr. Himchak, unless you amend the motion to include others.

MR. HIMCHAK: The original intent was the live fish market was a major nagging problem over the years. I'm not voting for the motion. I think we're running ahead of the stock assessment. If the stock assessment says it should be a target of 0.15, then, fine, how do we make some serious cuts and get there. We don't know what states will – obviously, everybody is going to go back and look at their MRFSS data. I'll leave it at that; I'm voting against the motion.

EXECUTIVE DIRECTOR O'SHEA: It's a point of information. I would ask the chairman of our commission if he wouldn't dial into this next comment. There have been a couple of references to the next assessment. The Policy Board is going to be asked the question of delaying the tautog assessment in this next session.

Right now we're scheduled for a benchmark in 2012 and they want to push that to 2013 because of workload issues, and then there are implications about when you're going to get the results of that, when the states would implement, and you're talking about kicking the can down until maybe 2014 or 2015.

Another option that is going to be available is the possibility of doing a turn of the crank using the existing VPA in 2011 – that model has been peer reviewed already – and that is relatively doable. It wouldn't be a benchmark but it would give you a reference point of where you are. I just want to caution, Mr. Chairman, the discussion about sort of there is the sense here that something magical is going to happen at the next benchmark stock assessment, and now I want to tell you that in the next meeting there is going to be a discussion about trading off and getting the river herring thing done, getting eels done, and the price of doing that may be to delay a tautog assessment. Thank you.

CHAIRMAN AUGUSTINE: Thank you for that input, Mr. O'Shea. You know, it is unfortunate that every issue of every species is more important than

something else. We've been arguing and complaining collectively and individually about the live market and the negative impact it is having on not only recreational fishermen but on commercial fishermen.

This is another case where hopefully our comments are loud and clear to that group that is going to review whether we get bumped from 2012 to 2014. If I have anything to say about it, I'd love to attend that meeting and argue for going in 2012. It just seems to me that always something else is just a little bit more important; talk louder and speak louder.

I don't want to pontificate, I never have since I've been chairman, but here is a case of a stock that is in trouble. It is not going up; it's going down. I think we've got to have – excuse the expression, I can't use that word that our candidate for governor of New York used – the guts to move this forward and believe in what we're doing. If we've got to go through these other issues one by one, and I think we will, to include other issues, then we're going to do that. I'm sorry I did that, but I did and that is where that is. Now, Mr. Fote, to the point.

MR. FOTE: To the point that the executive director raised; the point is the fact there is no huge economic fishery on eels as much as tautog. We're going to basically wind up shutting down river herring in New Jersey on a stock assessment where there is no economic. When it comes to tautog, and I think to the other states, there is a huge economic impact both recreationally and commercially in what we do with tautog and basically how we affect the regulations on this fishery. I'm going to be sitting at the same meeting you're going to be sitting at after this, and my recommendation is that tautog stay where it is and do it in 2012 because of the importance economically to a distressed commercial and recreational fishery.

CHAIRMAN AUGUSTINE: We have a motion on the table. Is there any discussion from the board? Mr. Miller.

MR. ROY MILLER: Just a quick question on the wording of the motion. It says move to include Issue 5, Option C, in Draft Addendum VI. I'm sorry, isn't it already in Draft Addendum VI? Perhaps I missed the intent of the motion.

MR. ROBERT E. BEAL: Well, it is up to you, Pat, how you proceed but I think where Roy Miller is, you know, you do have a draft document in front of you. There are a series of issues in there. I think the

question before the management board is do you want to add any additional issues or do you want to pull out some of these issues, and then there is a final wrap-up decision of whether that is the document that goes out to public hearing.

I think just randomly going around and picking the ones that you think should be in there, then you don't really know the status of the other ones. I don't know if you want go section by section or something else, but I think there needs to be some sort of structure to this discussion, it seems like.

CHAIRMAN AUGUSTINE: I stand corrected; I should have not entertained your motion, but I did. What I would like to do is hold it in abeyance, if we may, only or get it tabled, but I do think it is important that we need to go Issue 1 through; and if there are issues on this list, as Chris had pointed out, that are not viable, that we take the document in whole as it has been presented and then go from there. I think Mr. Beal is correct, to piecemeal it is going to be back and forth and back and forth. I don't want to lose that continuity, Dr. Pierce, and I understand what you're trying to do.

DR. PIERCE: The intent of my motion is for the addendum to only have Issue 5, Option C. That would be that everything else is out; that is the intent, and then it will be up to members of the board to say, no, we disagree, I disagree, I would like something else added in. I'm referencing again the slide that was given to us by Chris where he scratched out a lot of things, appropriately so, and I did not put anything into this motion relative to the live fish problem, the poaching problem. I still think that's principally an enforcement issue.

The other options don't seem that attractive to me although tagging does some attractive but we'll never get that done in time for next year. To me the burning issue is to deal with mortality, and this is it, to at least get us where we need to be and where we said we would be relative to that 2008 harvest target level.

CHAIRMAN AUGUSTINE: Thank you for that clarification. I know where you're coming from and I hope the board has got that message loud and clear. According to Dr. Pierce, there would be only one issue in this addendum, and that is that item on the board. Mr. Fote, in favor or against?

MR. FOTE: After Dr. Pierce's last statement, I guess I would have to be against the motion. My concern here is that in listening to AP and listening to the

fishermen out there, they wanted some action and that is one of the reasons we have been working on this product to basically get some action. This is an AP that hasn't met in a couple of years and they finally put forth some ideas to do that. I don't feel comfortable in sending out an addendum that does not include any of their ideas, so that's why I cannot support this motion.

CHAIRMAN AUGUSTINE: Thank you for that. Anyone in favor around the table that would like to speak to it? Mr. O'Connell, are you in favor or opposed?

MR. THOMAS O'CONNELL: I'm leaning towards to opposing it.

CHAIRMAN AUGUSTINE: Okay, we've got two already. If we need more ammunition for the opposition side, I'll ask for you. Anyone else in favor of it? Mr. Gibson.

MR. GIBSON: I support the motion. I agree with Dave that the whole poaching live market is primarily an enforcement issue, and I don't see compelling evidence that it is creating a mortality problem and unaccounted for catch. I think that he has targeted the burning issue that data problems notwithstanding, even if we collapse the Mid-Atlantic region as intended by MRFSS gets much better estimates, I think you come out in the same place, that we have a catch problem exceeding the potential rate of stock growth, so I'm in support of a very narrowed addendum to focus on that problem. Thank you.

CHAIRMAN AUGUSTINE: Thank you very much. Back to, Mr. O'Connell, you're opposed; what would you like to say on it?

MR. O'CONNELL: I just offer some reflection on the board is that we have a technical committee that has recommended an adjustment of F to 0.15. This action would keep it at an F of 0.20 and it would show that we would see limited progress in stock growth for the next decade. Just reflecting on our discussions yesterday, I'm just concerned that this isn't enough action and whether or not we should be looking at reducing the F rate to 0.15 and then running a turn-of-the-crank assessment in 2011 and see where we need to take action. I'm just concerned that this action doesn't go far enough. Thank you.

CHAIRMAN AUGUSTINE: Thank you; anyone else in favor of, please raise your hand. Any further

opposition; anyone else want to speak in opposition?
Mr. Travelstead.

MR. TRAVELSTEAD: **Mr. Chairman, I'm inclined to offer a substitute motion that would include all of the options currently in the document.** I would keep all of them in there with the exception of the few that were identified under the law enforcement issue by staff that weren't quite ready to move forward.

CHAIRMAN AUGUSTINE: Before I ask for a second to that, Chris, would you say what those are and we can get them on the board as numbers and issues.

MR. VONDERWEIDT: Sure, and I guess I have a question as far as what you said. There is kind of the law enforcement side of it and then there is kind of the side that these options are not viable to go out today. I can identify which options are ready to go out today in the document.

MR. TRAVELSTEAD: I thought you had a list of them.

MR. VONDERWEIDT: Yes, if I could get –

CHAIRMAN AUGUSTINE: That's why I asked – before getting a second, I asked Chris if –

MR. VONDERWEIDT: It would be the prohibition of live tautog, which is Issue 1, so recreational anglers would have to do an identification mark or would be prohibited from holding any live fish or would have to bleed their fish. And then 2, 3 and 4 are not viable. Five is the option that David was speaking to, the adjusted regulations. Eight would be the issue that Tom was addressing, the fishing mortality rate reductions, and then nine would include the recommendation for federal waters and also require states to implement possession in their current regulations.

CHAIRMAN AUGUSTINE: Thank you for that clarification. **Mr. Travelstead, does that agree with what you'd like to do as a substitute motion?**

MR. TRAVELSTEAD: Yes, sir.

CHAIRMAN AUGUSTINE: Thank you; do I have a second to Mr. Travelstead's motion? Mr. O'Connell seconds it. Debate on the substitute motion in favor; as the maker of the motion, Mr. Travelstead, would you like to speak above and beyond what you've

already said or are you satisfied with your comments?

MR. TRAVELSTEAD: Well, I'll just add a little bit. A majority of the board agreed that we had some problems back in August. The staff has done a great deal of work, all of which I think is valid. I would be disappointed if we didn't send this out to public hearing. There are a lot of different options in there. I don't agree with a every one of them, but there are solutions to the problems that we identified in August in this document. I think they deserve to be identified to the public, and we hear from them and then come back on act on it.

CHAIRMAN AUGUSTINE: Thank you. Anyone opposed to the motion? Mr. Simpson.

MR. SIMPSON: I like the direction Jack is headed in with this, but even if we ultimately can't implement a tag system, I would like to get some public input on it and have that as a potential alternative to consider. I am definitely in favor of hearing from the public on a broad suite of things. Frankly I think I have this right where we're keeping in the idea of the recreational angler marking fish, but we're essentially taking out the much smaller commercial fishery marking fish, and I think that would be a mistake.

CHAIRMAN AUGUSTINE: Could you offer that as a friendly –

MR. SIMPSON: If it were acceptable as a friendly to just take the whole thing out and get comment on all of it, and then we'll separate the good from the bad after that.

MR. TRAVELSTEAD: That's perfectly fine with me.

CHAIRMAN AUGUSTINE: The maker of the motion agrees; does the seconder agree with that? Mr. O'Connell agrees so if we can make that change. All right, discussion. Bob.

MR. BEAL: Would that effectively change the motion to bringing out the document to public hearing as it was presented today?

CHAIRMAN AUGUSTINE: That, as Mr. Beal pointed out, effectively brings it up and you can wipe out whatever is up there, but it says we're going to put the document to the public as is. Quite frankly, that is what we're going to be discussing and voting on now. Now, is there anyone around the table who

is opposed to that other than the comments that Mr. Simpson made to include something?

Who is opposed to the document going out as it is; show of hands, 3 opposed; all in favor same sign – move to substitute to include all of the options in Draft Addendum VI for public comment. Motion by Mr. Travelstead; seconded by Mr. O’Connell. Okay, we have three opposed; show of hands that are in favor, 7; any null votes; abstentions, Mr. Himchak.

MR. HIMCHAK: Mr. Chairman, procedurally I don’t recall the opportunity to caucus, and I don’t recall the opportunity for public comment prior to voting on the motion.

CHAIRMAN AUGUSTINE: Well, we can go back and do that if you’d like. Hold the vote abeyance; is that what you want to do?

MR. HIMCHAK: I would like to allow the opportunity for public comment on the motion.

CHAIRMAN AUGUSTINE: I think it is the prerogative of the chair to hold the vote in abeyance. That’s Roberts Rule of Order and I’m 76 years old, so it is my prerogative because of my age – hold the vote in abeyance until we hear that comment. Mr. Himchak, do you want to say something now.

MR. HIMCHAK: No, I wanted to offer the public the opportunity to comment before we voted on the motion.

CHAIRMAN AUGUSTINE: Thank you for that help. Captain Nowalsky, hold one second, please. Mr. Beal.

MR. BEAL: Just a question on where we are. Is your intent to hear public comment and then provide the opportunity for the board to caucus and then take another vote on this motion?

CHAIRMAN AUGUSTINE: Well, I held it in abeyance. I would ask for Roberts Rules of Order help on that one, but I thought the chair had some latitude. If you’d like to have a revote, we can do that, too. I don’t have my Roberts Rules of Order with me, but I thought it was the prerogative of the chair because one of the parties who may have input into it has not had the opportunity to present their view, so I would believe that it is my prerogative to hold the vote that we just had in abeyance and then take a revote after the comments to see if in fact that changes the outcome of the input. Mr. Simpson.

MR. SIMPSON: This is a substitute motion, right, so we voted on that. We’re about to vote on it as the main motion, so I would say it was an appropriate time to take public comment before we make a final vote, so I think you’re right where you want to be.

CHAIRMAN AUGUSTINE: Thank you for that, so are we all set now? Mr. Beal, are you clear on it?

MR. BEAL: Almost. I think you need to note for the record whether this motion passed or failed based on the vote that you just took and it becomes the main motion.

CHAIRMAN AUGUSTINE: Thank you very much. **The motion carried, 7 in favor, 3 opposed and 1 abstention.**

MR. HIMCHAK: Mr. Chairman, point of order on this. I understand there are only eight states on the board. I think you asked for a show of hands, so how do we come up with 11 votes?

CHAIRMAN AUGUSTINE: That’s interesting. We had three opposed that were here, Mr. Gibson, Dr. Pierce and Mr. Himchak. Those are the three opposed. Those states are all legal, yes. Sorry, Pete, you were the abstention. Who was the third vote in opposition? You were opposed, Peter. Hold on, hold the fort, everybody.

The first time I asked who was in opposition, three folks from this side raised their hand. We asked who were in favor and seven raised their hand. I asked were there any null votes; there were none. Then somebody told me we had to ask for abstentions and Mr. Himchak’s hand got counted as an abstention. What is the right vote? As I said, we will hold the vote in abeyance, we will hear the public comment, we will revote. If we have to have a roll call vote, we will and we will find out who is supposed to vote and who is not supposed to vote. Sorry for the interruption, Captain Nowalsky, please state your case.

MR. NOWALSKY: Mr. Chairman, I’m not sure what we’re speaking –

CHAIRMAN AUGUSTINE: Well, join the crowd.

MR. NOWALSKY: You know, you’ve got to laugh at it. The unfortunate part is that the issues we’re talking about here are affecting people’s livelihoods here, and these are very serious issues. The one comment that I’ll specifically make at this point that I withheld before now that there is a motion available,

with Issue 1, Option D, at the back of the addendum or the documents that were available here, the last tautog advisory panel conference call raised a number of issues against marking of fish, specifically that the commercial sector is also opposed to it because of what is going to happen with fish damaged done in pots.

These are structure-oriented fish. A significant number of fish that are landed in the commercial sector are going to look damaged. You could have the recreational sector, well, okay, I'm going to throw back a fish today. To make sure this fish never gets taken as commercial landings, the recreational fisherman marks the fish.

Okay, and now that fish can never enter the commercial market. So you've got a lot of evidence here that would preclude Option D being a justifiable option here at this point and would ask that the board here today go ahead and remove that. With regards to the Issues 5, 6, 8 and 9, again, Mr. Himchak has done a tremendous job here today of presenting a case with regards to baseline estimates and stuff that just outlined that there is going to be a number of states, New Jersey in particular, that will be severely impacted by this.

Most specifically here right now, Option D is something the advisory panel has spoken out against it, both recreational and commercial sectors. We would really ask that this be taken out here. I appreciate the time today.

CHAIRMAN AUGUSTINE: Thank you for your comments, and I apologize if I got lighthearted and we've got to laugh at the folks so I could laugh at myself. It wasn't intended to offend anyone. With that comment from the public, is there anyone else from the public who would like to make a comment?

Seeing none, now I would like to have an official vote again. **Move to include all the options in Draft Addendum VI for public comment. Motion by Mr. Travelstead; seconded by Mr. O'Connell. Do you want a roll call vote? Tom.**

MR. FOTE: I'm perfectly clear on what we're doing. **We're voting on the substitute motion to go to the full motion and we're going to have a chance to caucus before we vote.**

CHAIRMAN AUGUSTINE: Yes, we are.

MR. BEAL: What you agreed to following Dave Simpson's comment was that the previous vote that

you took was on the substitute motion. That motion carried. Now the motion that is on the board that you just read into the record is the main motion, so this will be the final vote. If this passes, then this addendum will go out to public comment between this meeting and the March meeting.

CHAIRMAN AUGUSTINE: Thank you for that clarification. Okay, this is the final vote. All in favor
–

MR. FOTE: Wait, Mr. Chairman, caucus. I know we're in a rush for lunch but we should caucus.

CHAIRMAN AUGUSTINE: I am not rushing to lunch. Caucus on this for how long; thirty second, one minute.

(Whereupon, a caucus was held.)

CHAIRMAN AUGUSTINE: Are you ready for the vote? Okay, all in favor of the motion on the board please raise your right hand, 7; same sign for those opposed to the motion as on the board, 3; are there any null votes, zero; are there any abstentions, none. The final vote is 7 for, 3 against, no nulls, no abstentions. **The motion carries.** Mr. Himchak.

MR. HIMCHAK: I have an important question here. Regarding the recreational issues, it says percentages will be adjusted using the same method as more accurate landings become available. Now, what is the timeline for states to make their case and to whom to impact the tables on the harvest? I would expect that would be done before this document goes out for public hearing.

MR. VONDERWEIDT: I don't think that's necessarily the case. I think that if they were available before this document goes out we would be happy to include them, but the way things worked with Addendum IV and V the last time was that basically even after the document has been approved by the board, what has been approved is the methodology to just compare the harvest to the baseline. So up until whatever that implementation date for states is – let's say January 1, 2013 – New Jersey could include that in their plan to meet the harvest reductions.

CHAIRMAN AUGUSTINE: We do have two other items on the agenda. Bob.

MR. BEAL: I think another idea for the board would be to discuss when they would like to have the public hearings for this meeting. Historically at times

during the holiday season, folks haven't really wanted to do public hearings and attendance has been pretty light. If the hearings are delayed until after the new year, that is six weeks between and then, that the states can provide some additional information.

I think if you set a date – I don't know what it might be – December 15th that states can provide additional data to the plan development team, they can plug that into this document and then we can release the updated version at the beginning of the year and hold the hearings early in 2011 and have plenty of time to summarize the comments and get it to the board by the March meeting. That is a suggested timeline. It is up to the board if that is what they would want to do.

CHAIRMAN AUGUSTINE: Does the board have any other suggestions other than December 15th? January 15th one of our members said; is that appropriate? Any problem with that? It works for us. Now, did you want a show of hands on which states – Mr. Simpson.

MR. SIMPSON: I guess I'm just wondering about when the MRFSS data would be available. If we're looking at 2010 and people wanted to incorporate that, it does beg for a little more time. I'm inclined to give states as much latitude as they need. I mean, there is an exceptional case here of base years that just don't look right.

As I said before, I will be very open-minded to New Jersey's approach and any other state that sees serious problems and how they intend to approach it. I do think if you have a November/December fishery and you're looking at how to make adjustments, you'd want to have that data first.

MR. BEAL: The wave data is usually six to eight weeks after the closing of the wave, so that puts you pretty close to the March meeting. You probably don't have enough time to hold the hearings and get the comments together. As Chris mentioned earlier, if the board sets a date, whatever that may be – January 15th is the one that was talked about – and then additional data comes in following that, during the public comment, I think the board has incorporated that in the past. We need sort of a deadline to put data into the public hearing draft; and then whatever happens after that, I think the board can deal with that subsequently.

CHAIRMAN AUGUSTINE: Good, is that acceptable with everyone? I see some nodding of

heads yes. Mr. Himchak, you had your hand up for a comment or are you satisfied with what –

MR. HIMCHAK: I was volunteering for a public hearing in New Jersey.

CHAIRMAN AUGUSTINE: Okay, I was going to ask for a show of hands of states that are going to have a public hearing or want to have a public hearing. We'll note the names of the states. Then I would ask the question would you be able to do the public hearing yourself within the state. Let's get an idea of how many states can do that and see how much of a saving we will have. We have five of the seven. The next item is Tautog Stock Assessment Subcommittee membership. Chris, would you do that for us, please.

TAUTOG STOCK ASSESSMENT SUBCOMMITTEE MEMBERSHIP UPDATE

MR. VONDERWEIDT: In anticipation of starting the tautog assessment, a stock assessment subcommittee has to be convened. The way that process works is that the technical committee and the management and science committee review nominations and put forward any new nominations. A memo was sent to them to come up with suggestions from the technical committee chair and vice-chair, ASMFC science staff, and ISFMP staff. The list is Jeff Brust, Paul Caruso, Laura Lee, Jason McNamee, Genny Nesslage and Richard Wong have been appointed to the Tautog Stock Assessment Subcommittee.

CHAIRMAN AUGUSTINE: That's it and we're going to move on the next one which is **populate the Tautog Plan Review Team and Technical Committee**. Chris, would you follow up with that.

TAUTOG PLAN REVIEW TEAM AND TECHNICAL COMMITTEE

MR. VONDERWEIDT: **CESS has recommended that Robert "Chip" Patterson replace Robert Unsworth as the economic representative on the technical committee and plan development team, so we've got that nomination which will need to be approved for the board in order for Mr. Patterson to be officially on there.**

CHAIRMAN AUGUSTINE: Okay, is there any objection to Mr. Patterson being approved to be on the technical committee? Are you objecting?

DR. LOUIS DANIEL: No, I'm not on the board, but I just wanted to let you know that Laura Lee will not be working on the Tautog Assessment. We can talk more about that at the business session, but I just wanted to make sure that you were aware of that.

CHAIRMAN AUGUSTINE: Okay, **fine, so seeing no opposition, he is approved.** Please pass along that information to him and give us congratulations for the former man who populated that and helped us along the way.

ADJOURNMENT

CHAIRMAN AUGUSTINE: Now we're down to other business and/or adjourn. Seeing none, any objection to adjournment? Seeing none, thank you so much.

(Whereupon, the meeting was adjourned at 12:27 o'clock p.m., November 11, 2010.)